

July 7, 2022

**Submitted via EPA FOIA online portal**

Regional Freedom of Information Officer  
U.S. Environmental Protection Agency, Region 4  
AFC Building, 61 Forsyth St., S.W., 9th Floor (4PM/IF)  
Atlanta, GA 30303-8960

**Re: Freedom of Information Act Request for Mid Valley Pipeline Rupture**

Dear Freedom of Information Act Officer:

Under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as amended, the Southern Environmental Law Center (“SELC”) requests access to certain documents created, received, or reviewed by the U.S. Environmental Protection Agency (“EPA”) related to the Mid Valley Pipeline—an approximately 1,000-mile pipeline originating in Texas and ending in Michigan—which recently ruptured in Chester County, Tennessee and released approximately 201,600 gallons of crude oil into the surrounding area, including Horse Creek.<sup>1</sup> Specifically, we request copies (electronic, if possible) of the following documents that were created, received, or reviewed by EPA from June 29, 2022 to the date of search for records responsive to this request:

1. All photographs, videos, maps and visual depictions related to the rupture of the Mid Valley Pipeline and resultant spill in Chester County, Tennessee.
2. All documents related to the rupture of the Mid Valley Pipeline and resultant spill in Chester County, Tennessee.
3. All documents related to any investigation into the rupture of the Mid Valley Pipeline in Chester County, Tennessee, including any potential, proposed, or identified causes of the rupture.
4. All documents related to any corrective actions which have been proposed, identified, and/or implemented to address the rupture of the Mid Valley Pipeline and resultant spill in Chester County, Tennessee.
5. All documents related to potential, proposed, and/or implemented cleanup efforts of the Mid Valley Pipeline rupture, including any analysis, data, or photographs related to these efforts as well as potential or identified short, medium, and long-term effects the event may or will have on the surrounding environment.

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<sup>1</sup> See Caroline Eggers, *Tennessee just had its second-largest crude oil spill ever, with 200,000 gallons leaking into rural town*, WPLN (July 5, 2022), <https://wpln.org/post/tennessee-just-had-its-second-largest-crude-oil-spill-ever-with-200000-gallons-leaking-into-rural-town/>.

6. All correspondence between EPA and any of the following entities, their subsidiaries, parent corporations, officers, employees, officials, or agents regarding the Mid Valley Pipeline and its rupture and resultant spill in Chester County, Tennessee, including any subsequent investigations, corrective actions, and clean-up efforts related to this event:
  - a. Pipeline and Hazardous Materials Safety Administration;
  - b. U.S. Chemical Safety and Hazard Investigation Board;
  - c. Tennessee Department of Environment and Conservation;
  - d. Energy Transfer Partners;
  - e. Mid-Valley Pipeline Company;
  - f. Sunoco Logistics Partners L.P.

For the purposes of this request, the term “documents” includes all written, printed, recorded or electronic: materials, communications, correspondence, emails, memoranda, notations, copies, agency records, studies, reports, meeting notes, diagrams, charts, maps, photographs, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages and mail in the possession or control of EPA and/or its contractors.

### **Fee Waiver Request**

SELC requests copies (electronic, if possible) without charge, or at a reduced charge, because reduction or waiver of fees is in the public interest and will contribute significantly to public understanding of EPA’s oversight of the Mid Valley Pipeline.<sup>2</sup> This request meets the criteria for a fee waiver because: (1) the subject matter of the requested records concerns the operations or activities of the Federal Government; (2) the disclosure is likely to contribute to an understanding of Federal Government operations or activities; (3) the disclosure of the requested information will contribute to the understanding of the public at large; (4) the contribution to public understanding of Federal Government operations or activities will be significant; and (5) the requester does not have a commercial interest that would be furthered by the requested disclosure.<sup>3</sup>

The public interest standard of FOIA’s fee waiver provision should be “liberally construed” in favor of waivers.<sup>4</sup> The goal of the statute is to avoid the “roadblocks and technicalities which have been used by various Federal agencies to deny waivers.” For the reasons discussed below, SELC’s request for a fee waiver should be granted.<sup>5</sup>

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<sup>2</sup> 49 C.F.R. § 7.43(c).

<sup>3</sup> *Id.*

<sup>4</sup> *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987); *Pederson v. Resolution Trust Corp.*, 847 F. Supp. 851, 855 (D. Colo. 1994); *Etlinger v. FBI*, 596 F. Supp. 867, 872 (D. Mass. 1984).

<sup>5</sup> *Pederson*, 847 F. Supp. at 855.

**I. Disclosure is likely to contribute significantly to public understanding of the operations and activities of the government.**

This request seeks documents and correspondence directly related to the above-described pipeline which recently ruptured, polluting a community and waterway with hundreds of thousands of gallons of crude oil. Information about this pipeline and rupture event will be meaningfully informative to the public because it will provide information regarding EPA's actions related to pipeline rupture as well as its interactions with public and private entities implicated by these events. The requested records directly and clearly relate to EPA's activities under various federal statutes related to water protection. The requested records will be meaningfully informative to the public because they will shed light on the government's response to a major pipeline rupture and oil spill which has resulted in the discharge of hundreds of thousands of gallons of crude oil into a Tennessee community and waterway. This request will inform a broad audience of persons interested in the pipeline and rupture in the State, including those persons who live, recreate, worship, and work near the pipeline and its rupture site.

SELC is a 501(c)(3) non-profit organization with over thirty years of experience disseminating public information regarding federal environmental regulatory and operations issues.<sup>6</sup> SELC generates and shares documents developed for the specific purpose of educating the public on particular issues. SELC provides the community with information on particular topics, including pipeline impacts<sup>7</sup> and water quality.<sup>8</sup> SELC also assists the public in locating information relating to particular topics by collecting and sharing relevant information and documents. A broad public audience, which SELC is uniquely situated to provide information to, is interested in the Mid Valley pipeline and its recent rupture. SELC does not have any commercial, trade, or profit interests in seeking these documents.

SELC plays a critical role in disseminating information and informing the public on issues related to water protection and pipeline safety. Disclosure of the requested records will clearly benefit the public in understanding EPA's efforts to protect the public and local environment from the rupture of the Mid Valley Pipeline and its associated oil spill in Tennessee. The requested disclosures are likely to significantly contribute to public understanding of government operations and are not primarily in the requester's commercial interest. This request therefore meets the requirements for a fee waiver, and so a fee waiver should be granted.

**II. Conclusion**

FOIA requires a responding agency to make a "determination" on any request within twenty (20) working days of receipt.<sup>9</sup> The statute favors disclosure of records and instructs the agency to withhold information only in narrowly defined circumstances in which the agency can

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<sup>6</sup> See <https://www.southernenvironment.org/about-selc>.

<sup>7</sup> <https://www.southernenvironment.org/news/byhalia-pipeline-basics/>.

<sup>8</sup> <https://www.southernenvironment.org/news-and-press/news-feed/tva-faces-scrutiny-for-polluting-plans-leaky-coal-ash-pits>.

<sup>9</sup> See 5 U.S.C. § 552(a)(6)(A)(i).

articulate a reasonably foreseeable harm protected by an exemption.<sup>10</sup> FOIA also requires the release of all reasonably segregable portions of a document that are themselves not exempt.<sup>11</sup> Should EPA refuse to provide the information requested, EPA must inform SELC of the grounds for its refusal and the specific administrative appeal rights which are available.<sup>12</sup> SELC further requests preparation of a *Vaughn* index to facilitate evaluation of the completeness of EPA's response.<sup>13</sup>

Should our request for reduced or waived fees be denied, we are prepared to bear the reasonable duplication and search costs necessary to fulfill this request. However, I request you contact me before processing this request if the fee is expected to be in excess of \$100.00. SELC reserves our right to appeal a fee waiver or reduction denial. If you have any questions regarding this request, please feel free to contact me at 615-921-9470 or [sbiggs@selctn.org](mailto:sbiggs@selctn.org). I appreciate your prompt attention to this matter.

Sincerely,

s/Stephanie Biggs  
Stephanie Biggs  
Southern Environmental Law Center  
[sbiggs@selctn.org](mailto:sbiggs@selctn.org)

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<sup>10</sup> *See id.* at § 552(a)(8)(A)(i).

<sup>11</sup> *See id.* at § 552(b).

<sup>12</sup> *See id.* at § 552(a)(6)(A)(i).

<sup>13</sup> *See Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973) (index should include a detailed justification for claims of exemption, as well as specificity, separation, and indexing of documents).